

REMARKS

Applicant has carefully reviewed the Application in light of the Advisory Action mailed October 11, 2005. At the time of the Advisory Action, Claims 1-22, 24-25, and 27-28 were pending in the Application. Applicant amends Claims 1 and 12 without prejudice or disclaimer. The amendments to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1-4, 6-8, 11-13, 16, 19-22, and 27-28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,047,051 issued to Ginzboorg, et al. (hereinafter "*Ginzboorg*") in view of U.S. Patent No. 6,389,537 issued to Davis (hereinafter "*Davis*"). The Examiner rejects Claim 5 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,956,391 issued to Melen et al. (hereinafter "*Melen*"). The Examiner rejects Claim 9 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,970,477 issued to Roden (hereinafter "*Roden*"). The Examiner rejects Claims 10 and 14-15 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Publication No. 2002/0059114 issued to Cockrill et al. (hereinafter "*Cockrill*"). The Examiner rejects Claim 17 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,852,812 issued to Reeder (hereinafter "*Reeder*"). The Examiner rejects Claim 18 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,778,189 issued to Kimura et al. (hereinafter "*Kimura*"). The Examiner rejects Claims 24-25 under 35 U.S.C. §103(a) as being unpatentable over *Ginzboorg* in view of *Davis* and U.S. Patent No. 5,319,454 issued to Schutte (hereinafter "*Schutte*"). The rejections are respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that in order to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one

of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.¹

It is respectfully submitted that Independent Claim 1 is patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each and every claim limitation. For example, Independent Claim 1, as amended, recites *"determining, by the proxy, whether or not the content is chargeable content, wherein the determining step includes accessing a database that includes information that is indicative of which content is chargeable and which content is free to end users connected to a network."*

This limitation is simply not found in any of the references of record. In particular, the ability of the proxy to make this determination is significant for a number of reasons. For example, if the proxy performs such an analysis, then the content provider itself is no longer taxed by the organizational chore of recognizing which content is to be charged for. This would allow a given server to simply provide the content freely, while the proxy would operate as a regulator in this scenario. Note that this determination is not being executed by any other component; the decision is being made at the same node that generates billing information, namely the proxy. Traffic, whether chargeable or not, flows through the proxy. In a general sense, the proxy is used to keep track of the burdensome data and, thereby, allows the content provider to more efficiently perform its designated assignments: particularly, to deliver content to those subscriber terminals requesting such content. Accordingly, Independent Claim 1 is patentable over *Ginzboorg* and over the proposed *Ginzboorg-Davis* combination for at least these reasons.

In addition, Independent Claim 12 recites a similar (but not an identical) limitation and, thus, is allowable over this combination using a similar rationale. Additionally, using analogous reasoning, the corresponding dependent claims of these Independent Claims are also allowable over the references of record.

Accordingly, all of the pending claims have been shown to be allowable as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

¹ See M.P.E.P. § 2142-43.

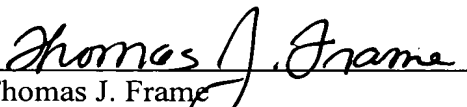
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant submits herewith a check in the amount of \$790.00 to satisfy the request for continued examination fee of 37 C.F.R. §1.17(e). If this is not correct, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas Frame at 214.953.6675.

Respectfully submitted,
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